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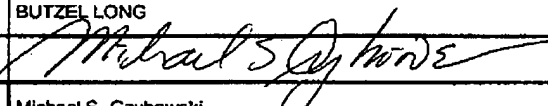
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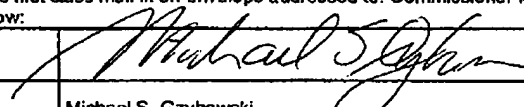
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/007,186	
	Filing Date	November 5, 2001	
	First Named Inventor	Yasushi KOHNO	
	Art Unit	3643	
	Examiner Name	Andrea Valentini	
Total Number of Pages in This Submission	6	Attorney Docket Number	121056-028

ENCLOSURES (Check all that apply)		
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Date	September 16, 2008	Reg. No. 32,816

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Appl. No. 10/007,186

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group
Art Unit: 3643

Attorney
Docket No.: 121056-028

Applicant: Yasushi KOHNO

Invention: METHOD OF PREVENTING DEFECTIVE
GERMINATION OR ROSETTE
FORMATION OF SEED

Serial No: 10/007,186

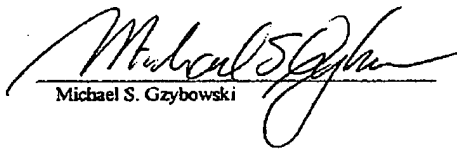
Filed: November 5, 2001

Examiner: Andrea Valentini

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on September 16, 2008


Michael S. Gzybowski

REPLY BRIEF

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Answer mailed July 16, 2008, Appellant submits the present reply.

On page 6 of the Examiner's Answer the Examiner has stated that:

Ohkawa et al. was cited merely as support that the steps taught by the prior art of record of Coolbear and Khan would cause the result claimed by applicant i.e. preventing rosette formation.

The Examiner's point/statement is misleading.

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Ohkawa et al. does not disclose leaving plant seeds in a highly watery condition at a low temperature in a dark place.

Therefore, it cannot be said (and has not been established) that Ohkawa et al. demonstrates that the "steps taught by the prior art of record of Coolbear and Khan cause the result claimed by applicant."

In this regard, as set forth in Experiment 2 of Ohkawa et al. on page 226, the seeds are hydrated at a temperature of 28/23°C for up to three days and after this hydration step, the seeds are then stored at 3 or 10°C for five weeks under constant radiance.

This is completely different from Appellant's claimed process that requires, in part, leaving the plant seed to stand in a highly watery condition at a temperature of 0 °C to 15 °C in a dark place for a period of time of from several days to several months to inhibit defective germination and rosette formation of the plant seed, the dark place being sufficiently dark to prevent the plant seed from germinating.

Accordingly, the Examiner cannot rely upon Ohkawa et al. as evidence that the "steps taught by the prior art of record of Coolbear and Khan cause the result claimed by applicant."

The Examiner's statement that:

Ohkawa et al. was cited merely as support that the steps taught by the prior art of record of Coolbear and Khan would cause the result claimed by applicant i.e. preventing rosette formation.

infers that the combination of Coolbear and Khan teach Appellant's claimed invention.

On pages 6 and 7 of the Examiner's Answer the Examiner states:

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Coolbear teaches...a) leaving the plant seed to stand in a highly watery condition at a low temperature in a dark place for a period of time; leaving the plant seed in a highly watery condition the plant seed is immersed in water at a temperature of from 0°C to 15°C (Coolbear page 186, Method section "allowing seeds to imbibe distilled water at a constant 10°C in darkness.") b) drying the plant seed said drying takes place immediately after leaving the plant seed stand in the highly watery condition at the low temperature in a dark place (Coolbear, page 186, Methods section "On completion of the treatment time, germinated seeds (pregerminants) were removed and the remaining seeds dried in open Petri dishes at room temperature.").

The Examiner's own admission is that in Coolbear "the remaining seeds dried in open Petri dishes at room temperature."

There is no teaching that the seeds were dried in a dark condition.

The specific teaching of drying the seeds in "open Petri dishes at room temperature" cannot be taken as a teaching that the seeds were dried in a dark condition.

At best the reference to drying the seeds in "open Petri dishes at room temperature" strongly suggests that Coolbear failed to recognize any criticality related to the manner in which the seeds were dried.

This lack of criticality is born out in the third full paragraph on page 186 of Coolbear where it is noted that the study conducted by Coolbear only involved temperature effects on imbibed seeds, which temperature effects are contrasted to osmotic stress effects. There is no mention (or concern) of any study on drying the seed in a dark condition.

On page 8 of the Examiner's Answer the Examiner states that:

Kahn [*sic.*] teaches it is known to keep seeds in a chilled condition soaking in water in the dark for several days (Kahn [*sic.*] Col. 4 line 15).

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From this the Examiner concludes that:

It would have been obvious....to further modify the teachings of Coolbear with the teachings of Kahn [*sic.*] at the time to the invention for effective and efficient treatment of the seeds; enough tie for the seeds to imbibe the desired amount of water; and depending on desired storage time, seed variety, and planting cycle.

Khan is directed at a method of "inducing releasable dormancy in non-dormant plant seeds" which involves soaking the seeds in a "gibberellin synthesis inhibitor solution."

As explained in column 2, lines 22-39 the gibberellin biosynthesis pathway includes seventeen steps. By introducing a gibberellin synthesis inhibitor into the seeds (by soaking the seeds in a gibberellin synthesis inhibitor solution), Khan induces dormancy into the seeds.

The study performed by Khan is not at all related to that of Coolbear.

The drying discussed at column 3, lines 40-52 of Khan in drying step (c), in which the hydrated seeds are dried in a dark place in order to prevent the inactive condition (i.e. dormancy) of the seed, is carried out after the immersion step (a) and after the washing step (b).

Accordingly, the drying step (c) of Khan does not correspond to the drying step of the present invention in which the drying takes place immediately after leaving the plant seed to stand in the highly watery condition at the low temperature in a dark place.

Further, as the Examiner is no doubt aware, Khan fails to teach Appellant's steps (a) and (b).

Based upon it is submitted that Ohkawa et al. does not serve as evidence that the "steps taught by the prior art of record of Coolbear and [Khan] cause the result claimed by applicant."

Further, the combination of Coolbear and Khan does not render Appellant's claimed invention obvious.

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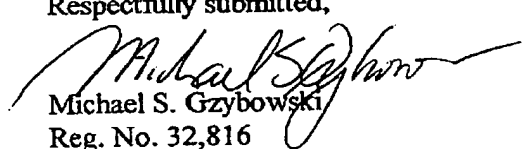
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CONCLUSION

For the reasons advanced above and for the reasons advanced in Appellant's Brief on Appeal, Appellant respectfully contends that the rejection of claims 1, 4 and 5 under 35 U.S.C. §103(a) as being unpatentable over Ohkawa et al., Coolbear et al. and Khans improper because the examiner has not met the burden of establishing a prima facie case of obviousness of Appellants' claimed invention.

Reversal of the outstanding rejections on appeal is respectfully requested.

Respectfully submitted,


Michael S. Gzybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3110

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